

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF CHESAPEAKE

COMMONWEALTH OF VIRGINIA)	CASE NOS. CR03-3089, CR03-3090, CR03-3091
VERSUS)	
LEE BOYD MALVO a/k/a)	INDICTMENT - CAPITAL MURDER (2
John Lee Malvo)	Counts) and USING A FIREARM IN THE
		COMMISSION OF A FELONY

AMENDED ORDER

On October 9, 2003, Robert F. Horan, Jr., the Commonwealth's Attorney, Raymond Morrogh, the Deputy Commonwealth's Attorney, LEE BOYD MALVO a/k/a John Lee Malvo, the Defendant, and Michael Arif and Craig Cooley, co-counsel for the Defendant, appeared before this Court. The Defendant is indicted for the felonies of CAPITAL MURDER (2 Counts) and USING A FIREARM IN THE COMMISSION OF A FELONY and he appeared while in custody.

This case came before this Court today for argument on motions filed by the Commonwealth and the Defendant. The Court ruled as follows on each motion:

1. The Commonwealth's motion to appoint Dr. Park Dietz to perform an evaluation on the defendant pursuant to Code §19.2-264.3:1(F) is **denied**. The Commonwealth is directed to designate another mental health expert.
2. The defendant's motion to order sound enhancement of the untranscribed portion of the audiotape of the interrogation of the defendant is **denied** in that the Commonwealth represented to the Court that no further enhancement of the audiotape is technologically possible. The Commonwealth is directed to use its best efforts to provide the Defense with the substance of the defendant's statements during the periods of the interrogation that were not on audiotape.
3. The defendant's motion for disclosure of discovery materials (DNA and handwriting analysis documents) was largely resolved between Counsel. For those items that remain in dispute, the Court ruled as follows: Paragraph #3 to defense Exhibit #1 is **denied**. However, the Commonwealth represented to the Court that the person who

found the "ballpoint pen barrel" at the Tasker School will testify at trial and will be available for cross-examination by the Defense. The defendant's request for elaboration of the items contained in Paragraph #4 of defendant's Exhibit #1 of the motion is **denied**. The Commonwealth agreed to respond to the items requested in Paragraphs 6 and 7 of Exhibit #1.

The Defendant was remanded to the custody of the Sheriff.

Entered on October 17, 2003.

(ANE)MARUM ROUSH
JUDGE DESIGNATE